

Coordinating Government

2001 Livable Delaware Executive Order 14 The Livable Delaware Agenda

On March 22, 2001, Governor Ruth Ann Minner issued Executive Order No. 14, establishing the Livable Delaware Agenda. Concerned with quality of life, the agenda strives to protect the positive aspects of living, working, raising families and enjoying recreation in Delaware. The order was prompted by the forecast of dramatic population increases, the challenges of sprawl, traffic congestion, farmland loss, disappearing open space, shortage of affordable housing, and diminished quality of air and water. The Livable Delaware Agenda implements strategies that previous administrations helped to build. Governor Minner wanted to assure that taxpayers' money be used to support planned development that is consistent with the Strategies for State Policies and Spending and approved local plans.

The Governor's first step was to order the state to put its own house in order. Each state agency was directed to produce a Livable Delaware Implementation Plan⁶ to

show how their missions could be carried out while fulfilling the Livable Delaware strategies. She also asked the agencies to identify any impediments to achieving the goals. Further, each state office had to show how budget planning would be used in concert with the strategies. The Governor also called for the drafting of any necessary legislation.

These action plans were completed by each state agency and reviewed by the Cabinet Committee on State Planning Issues by October 31, 2001. All of state government was on board and the Livable Delaware Agenda was underway.

⁶ Links to the Livable Delaware Implementation Plans for the state agencies are found on: <http://www.state.de.us/planning/livedel/details.htm>

Coordinating Government

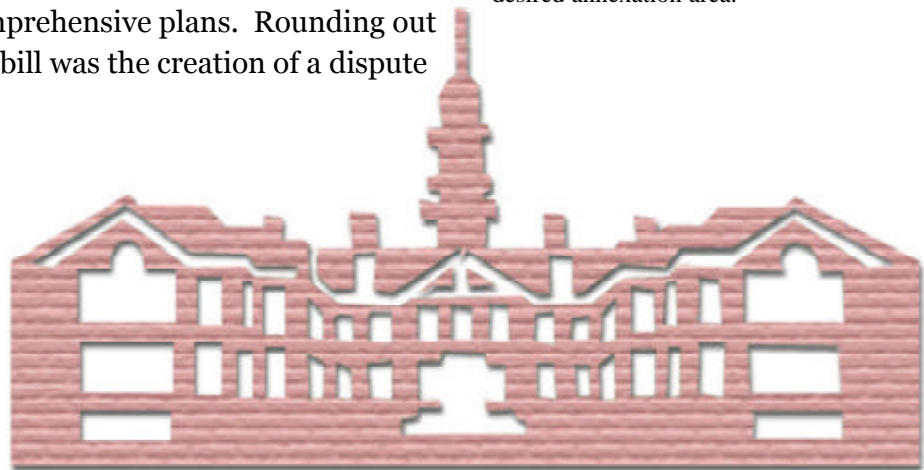
The Passage of House Bill 255

On July 13, 2001, Governor Minner took up the fight against unwise development and sprawl by signing three bills from her Livable Delaware Agenda into law. One of the bills, HB 255, was a huge step toward making comprehensive planning a reality in Delaware.

HB 255 is a far reaching piece of legislation that dramatically reshaped planning in Delaware by creating a plan certification process and reforming annexation requirements. House Bill 255 requires municipalities to have plans of services⁷ for annexation. It further directs counties and municipalities to match their zoning to their comprehensive plans. Rounding out the bill was the creation of a dispute

resolution process for disagreements between levels of government, and the provision of funding to help municipalities with comprehensive plans. This bill created the incentive for local governments to write and implement their plans, and now more than 90% of Delaware's jurisdictions are engaged in planning. At the time this document went to press, 37 municipalities have comprehensive plans that are either certified by the state or completed awaiting certification.

⁷A Plan of Service is a form completed by a municipality which details how the local government will provide services – such as water, sewer, and police protection — to the desired annexation area.



Coordinating Government

Livable Delaware Advisory Council

Senate Bill 105 (signed on 6/14/01) creates an Advisory Council on Planning, chaired by Lt. Governor John Carney. The Advisory Council, named by Governor Minner, includes representatives of local governments, counties, homebuilders, agriculture, civic associations, and others. The Council also includes the cochairs of the Bond Bill Committee. The group has key responsibilities under Livable Delaware and has created subcommittees for specific issues.

Duties of the Advisory Council:

- Assist the Governor in addressing state development and land use issues.
- Recommend legislation, policies and tools that support the Governor's Livable Delaware initiative.
- Provide recommendations to the Governor on state agency Livable Delaware implementation plans.
- Approve and monitor livability indicators.
- Facilitate dispute resolution for government jurisdictions involved in land use planning issues.
- Other duties assigned by the Governor.

Composition of the Advisory Council:

- A Chair to be appointed by the Governor.

- Chair of the Cabinet Committee on State Planning Issues.
- The County Administrator or County Executive or their designee, representing each of Delaware's counties.
- The President or a designee representing the Delaware League of Local Governments.
- The cochairs of the Joint Bond Bill Committee.
- Eight members, appointed by the Governor, representing the following: agriculture and/or agribusiness; homebuilders; business; real estate and development; environmental interests; community development; historic preservation; and civic associations.
- The Secretaries of Transportation, Natural Resources and Environmental Control, Agriculture, and the Director of Economic Development shall serve by virtue of their positions.

The subcommittees have addressed and reviewed a number of issues and reported back to the Livable Delaware Advisory Council. Since many key stakeholders are represented in their membership, they've been a valuable source of guidance for the Council.

Coordinating Government

The Preliminary Land Use Service (PLUS)

The Office of State Planning Coordination (State Planning Office), working with partners from the private sector, state and local government, drafted a revision of the Land Use Planning Act (29, Del. Code, Chapter 92), also known as “LUPA,” which dated to the 1970s. This revision updates the LUPA process to provide more timely technical input to the development community and to local government decision-makers. The new process — the Preliminary Land Use Service (PLUS) — was signed into law as Senate Bill 65 on August 14, 2003.

The State Planning Office considered the concerns of stakeholders when developing the PLUS process, an update of the LUPA process designed to meet the needs of developers and local governments more efficiently.

The new process provides:

- More timely decisions – state agency reviews happen earlier in the process. This ensures that the state agency comments are heard early enough to help local governments.
- More consistency – the standards by which state reviewers comment on proposals should stay consistent over time.
- More choices – state agency comments offer constructive options to improve project plans.
- More information exchange – PLUS is more specific on what project information should be reviewed. This way comments are more targeted and eliminate confusion over extraneous information.

The Revised Process

The new PLUS process involves reviews by all applicable state agencies at the start of the land development process, adding value and knowledge to the process without taking away the authority of local governments to make land use decisions.

Purpose

This new, up-front process has a threefold purpose:

- To identify and mitigate potential impacts of development which may affect areas beyond local boundaries;
- To fully integrate state and local land use plans; and
- To bring state agency staff together with developers, and local officials, early in the process.

Coordinating Government

The Preliminary Land Use Service (PLUS)

Benefits

This updated process will benefit applicants in several ways:

- It will speed the process when a proposal is included in a certified comprehensive plan;
- It will promote the sharing of ideas and resources among state, county, and local governments.

Improvements

Applicants may explain their projects to planners representing all state agencies and have a constructive dialogue. The streamlined process will shorten state response time to more closely coordinate with local timelines. State comments will be received early enough to be useful and will more completely reflect state and local land use plans and regulations.



Coordinating Government

The Strategies in Relation to County and Municipal Comprehensive Plans

Purpose of the strategies

The strategies guide state infrastructure investment decisions, for both direct investments (facilities for which the state is responsible) or indirect (infrastructure supported through state grants, loans or appropriations).

The strategies set priorities for the state's management of regulatory programs, land protection, state lands, and buildings. They are also a framework for state comments on local comprehensive planning and land use decisions.

Supporting actions are developed through continued coordination with counties, municipalities and various stakeholders. These policies are flexible enough to reflect the diversity of Delaware, and the needs of areas that don't neatly fit into specific strategy classes. State agency decisions now have criteria expressing the intent of state policies on land development.

The criteria and underlying data will be comprehensively reviewed every five years. The strategies and maps will be adjusted to reflect changing trends. The updated strategies will continue to provide a basis for state comments on the county and

municipal governments' review of their comprehensive plans. These reviews are required every five years. The updates will keep the strategies current and will continue the intergovernmental coordination necessary for the proper linking of land use, infrastructure, and resource protection decisions.

State agencies will still make site-specific decisions about particular infrastructure issues and enforce regulatory processes. Such decisions will examine the unique circumstances at each site. These decisions will be based on the guidance given by the investment strategies.

In jurisdictions with certified comprehensive plans the Strategies document and maps shall not be construed to impede plan review, permitting processes, or other State regulatory programs with the intent of disapproving growth otherwise permitted and within designated growth areas described by the local jurisdiction's comprehensive plan.

The accompanying strategy map is a graphic representation of the state's policies and guide state agencies as they make investment decisions. It reflects the overall development

Coordinating Government

The Strategies in Relation to County and Municipal Comprehensive Plans

pattern envisioned by Livable Delaware and developed in coordination with comprehensive plans of the state, counties and local governments.

The strategies and maps are not intended to replace local land use plans, but rather to guide the development of county and municipal plans. The strategies do not restrict landowners' rights to use or develop their lands nor do they restrict a purchasers option to live anywhere desired.

The strategies do create a framework for where the state will allocate its resources and focus state program efforts. The strategies and the map recognize that some development will continue to occur in outlying areas in response to individual decisions, to the extent permitted by county plans and regulations.

How will the state use the strategies?

The state will use the strategies and map as a guide when allocating new state funding for farmland preservation, open space preservation, transportation investments, housing development,

water, and wastewater financing. The state will use the strategies as guidelines to direct funds to existing communities and growth areas and to protect critical farmland and open space from sprawl.

State agencies will use the map as a basis for a review of programs and policies. The State Planning Office will also use the strategies when reviewing comprehensive plans and land use proposals. This analysis may result in policy revisions, new intergovernmental agreements, and tools such as the open space and historic tax credits.

How will the counties and municipalities use the strategies?

Although the strategies and map are not meant to prohibit development or limit local authorities' control over land use, they will be a critical component to be examined during county and municipal comprehensive plan development and revision process required under the Delaware Code.

They will also be part of the state guidance for municipal planning and for intergovernmental coordination between counties and municipalities.

Coordinating Government

The Strategies in Relation to County and Municipal Comprehensive Plans

The strategies and map will be an integral part of the criteria used for state review and comment to local governments under the Preliminary Land Use Service (PLUS).

The state's relationship to county and municipal authorities

Delaware's county and municipal governments have the authority to plan for and manage land use and to institute zoning and other controls required to implement comprehensive plans. This tradition of local control over land use is appropriate and reflects the conviction that

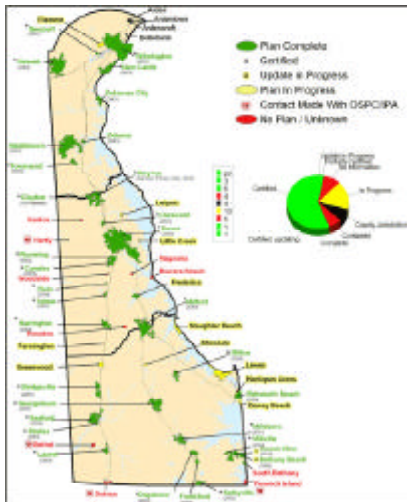
decisions about land use should be made by those most closely involved.

The state respects this long-standing tradition of local control over land use. Yet the state government has a continuing involvement in the overall land use patterns because of its responsibility to the state taxpayers. The state provides or financially supports many major public services and facilities (transportation, health care,

education, corrections and Safety and Homeland Security) and is responsible for protecting the state's natural resources, and for ensuring the overall economic health of the state. The state also assists local governments financially by providing grants and loans. It is for these reasons that the Cabinet Committee on State Planning Issues is charged by statute with recommending the overall pattern of development for the state and the need for and location of major public facilities.

The development of spending and resource management strategies does not change the basic relationship between levels of government as it relates to land use, nor do these strategies reduce the local governments' authority to make land use decisions consistent with either their statutory authority or their locally adopted comprehensive plans.

The strategy does establish a framework for where the state intends to allocate its resources and focus its program efforts. In this way, the state fulfills its obligations to effectively make public investments and manage taxpayers' resources, while respecting the tradition of local government



Status of Municipal Comprehensive Plans -
- Graphic courtesy of the University of Delaware (UD) Institute for Public Administration (IPA).

Coordinating Government

The Strategies in Relation to County and Municipal Comprehensive Plans

authority over basic land use decisions.

Strategies Guidance for the Regional Planning Process

Regional, multi-jurisdictional approaches to planning and to the timing of infrastructure investment are increasingly important for those areas of the state where development pressures are strong, infrastructure capacity is lacking, and the interest of the various jurisdictions involved might not be entirely consistent. In addition, such regional efforts can consider otherwise overlooked natural functions such as watersheds and drainage basins, and such overarching issues as their ability to absorb pollutants.

It is important to coordinate multi-jurisdictional visions for these rapidly developing areas to prevent unwise development, soothe traffic problems, and reduce stress on natural resources. There is a clear and growing need for better intergovernmental coordination that would lead to significant resource protection and more efficient, timely investments in infrastructure.

Working as part of a team effort with county and local jurisdictions, state efforts include undertaking regional

planning efforts in selected subareas.

Regional planning is critical because state and county plans are fairly general, resulting in the need for more thorough analysis of specific sites and development considerations (carrying capacity, site limitations, interconnections between developments, overall character, community values, developer and landowner interests). These efforts would result in policies and spending strategies that better address timing, design and development requirements, as well as resource protection.

This initiative represents a logical continuation of the intergovernmental coordination efforts and the efforts to facilitate comprehensive planning at county and local levels.

It also puts the state at the table in areas where, due to significant development pressures, the state will have a major investment and resource management responsibility.